

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:09-cr-11-01

v.

HONORABLE PAUL L. MALONEY

WESLEY DARNELL BURTLEY

Defendant.

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MEMORANDUM OPINION AND ORDER

Defendant Wesley Darnell Burtley has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

The defendant, however, is not eligible for a sentence modification. He was sentenced as a career offender under U.S.S.G. § 4B1.1 and the amendments are of no assistance to him. The applicable guideline range has not been lowered as a result of the amendment to the Sentencing Guidelines. United States v. Baxter, No. 11-15664, 2012 WL 1192173 (11th Cir., Apr. 9, 2012);

see United States v. Bridgewater, 606 F.3d 258, 260-01 (6th Cir. 2010); United States v. Washington, 584 F.3d 693, 700-01, (6th Cir. 2009). Accordingly,

IT IS HEREBY ORDERED that Defendant Wesley Darnell Burtley's motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 34) is **DENIED**.

Date: November 7, 2012

/s/ Paul L. Maloney

Paul L. Maloney
Chief United States District Judge